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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,386

05/03/2006

Helmut Jerg

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

RIGGLEMAN, JASON PAUL

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

12/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,386	Applicant(s) JERG ET AL.	
	Examiner JASON P. RIGGLEMAN	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/3/2006 and 9/8/2008</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the specification refers to claims 1-10, paragraph [0006]. Appropriate correction is required

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “openings 9” and “cam 9”. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that

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the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitation "and a movement that is not a to-and-fro displacement movement in alternating directions" is new matter.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 11 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "and having two open ends via which rinsing liquid can be supplied in a pressurized manner" is not understood. The phrase "is one of a plurality of spray channels that are aligned parallel to one another at least on the bottom of the rinsing container" is not understood.

7. The term "pressurized manner" in claim 13 is a relative term which renders the claim indefinite. The term "pressurized manner" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Note: the applicant appears to be calling a plate-type valve feeding a manifold a -- "distributor".

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 11, 14-15, 18, and 20 rejected under 35 U.S.C. 102(b) as being anticipated by Lutolf (FR2285838).

9. Lutolf teaches a dishwasher having a spray device including two spray channels (3) and distributors (80) (60) feeding the spray channels (3). The spray channels, which are parallel,

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has two open ends which rinsing liquid can be supplied in pressurized manner, see Figure. The pressure is variable -- by means of the distributors. The rinsing container is trough-shaped. The distributor has one opening in which liquid can be supplied in a pressurized manner via an open end of the spray channel in a predetermined position of the distributor.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 12-13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutolf (FR2285838) as applied to claim 11 above, and further in view of Bolla (CH571852).

12. Lutolf does not teach the to-and-fro movement of the distributor in alternating directions and the drive means; however, Bolla teaches a distributor (8) which is movable related to the spray channel in a displacement movement, Figs. 1-2. There is a drive means for driving the distributor in periodic movement. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lutolf with Bolla to create a dishwashing machine with an alternating spray pattern to achieve the expected result.

13. Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lutolf (FR2285838) as applied to claim 11 above.

14. Lutolf does not teach that the tubular spray member has varying spray arcs between members; however, it has been held that an obvious choice in design is not patentable (*In re Kuhle* 188 USPQ 7). It would have been obvious to one of ordinary skill in the art at the time of

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the invention to modify FR2285838 to create a stationary nozzle array which has minimal dead zones to achieve the expected result.

15. 12-13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutolf (FR2285838) as applied to claim 11 above, and further in view of Perry (US Patent No. 6003529).

16. Lutolf does not teach the to-and-fro movement of the distributor in alternating directions and the drive means ; however, Perry teaches a distributor (valve 40) which is movable related to the spray channel in a displacement movement, Fig. 2. There is a drive means for driving the distributor in periodic movement. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lutolf with Perry to create a dishwashing machine with an alternating spray pattern to achieve the expected result.

17. Lutolf, as modified by Perry, above, does not teach the drive slot/rotary disk/cam; however, has been held that an obvious choice in design is not patentable (*In re Kuhle* 188 USPQ 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lutolf, as modified by Perry, above, to create a horizontally movable plate-valve which has conventional means to move it periodically throughout the washing cycle to affect the pressure and spray to achieve the expected result.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON P. RIGGLEMAN whose telephone number is (571)272-5935. The examiner can normally be reached on M-F, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art Unit 1792

Jason P Riggleman
Examiner
Art Unit 1792

/J. P. R./
Examiner, Art Unit 1792
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